

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0487-02
Bill No.: SCS for HB 41 w/ SA 1 and SA 2
Subject: Crimes and Punishment; Public Safety Department; Children and Minors; Law Enforcement Officers and Agencies.
Type: Original
Date: May 7, 2007

Bill Summary: This proposal modifies provisions relating to the investigation of Internet sex crimes against children and administrative duties of the Highway Patrol. Certain sections have an emergency clause.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(\$250,000)	(\$250,000)	(\$250,000)
Total Estimated Net Effect on General Revenue Fund	(\$250,000)	(\$250,000)	(\$250,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Criminal Records	\$2,868,333	\$3,442,000	\$3,787,500
Various State Funds	\$0 to (\$36,720)	\$0 to (\$36,720)	\$0 to (\$36,720)
Total Estimated Net Effect on <u>Other</u> State Funds	\$2,831,613 to \$2,868,333	\$3,405,280 to \$3,442,000	\$3,750,780 to \$3,787,500

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	(\$45,805)	(\$106,063)	(\$166,321)

FISCAL ANALYSIS

ASSUMPTION

Officials of the following offices, agencies, commissions, departments, assume no fiscal impact.

Office of the Attorney General, Office of the State Treasurer, Office of the Secretary of State, Department of Public Safety - Fire Safety Division, Office of Administration - Administrative Hearing Commission, Department of Natural Resources, Missouri Department of Conservation, Department of Revenue, Department of Corrections, Office of State Courts Administrator - State Courts, Department of Health and Senior Services, Department of Labor and Industrial Relations,

§§43.530 – 45.457 – Background Screenings:

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the following fiscal impact from this part of the proposal:

	<u>CY 2006</u>			<u>FY 2008</u>
Background Checks	60,258	x	\$4	\$241,032
Fingerprint Checks	<u>47,273</u>	x	\$1	<u>\$ 47,273</u>
Total	107,531			\$288,305

Assuming the level of background checks and fingerprint searches remains level, and assuming the fee increases by \$1 per annum as allowed in the proposal, the fiscal impact may be computed as follows:

FY 2008		Increase		FY 2009		Increase		FY 2010
\$241,032	+	\$60,258	=	\$301,290	+	\$60,258	=	\$361,548
<u>\$ 47,273</u>	+	<u>\$ 0</u>	=	<u>\$ 47,273</u>	+	<u>\$ 0</u>	=	<u>\$ 47,273</u>
\$288,305		\$60,258		\$348,563		\$60,258		\$408,821

In summary, DESE assumes an increase in cost to local school districts of \$288,305 in FY 2008, \$348,563 in FY 2009 and \$408,821 in FY 2010. Officials assume costs would be on local school districts. **(amendment 2)**

Officials from the **Department of Mental Health (DMH)** assume a “requesting entity” could include DMH community providers which would result in an increased cost to those providers.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources (DNR)** assume this proposal does not specifically speak to who would be responsible for costs of the background checks. Therefore, for purposes of this fiscal note, DNR assumes this proposal would not result in a significant direct fiscal impact to the department.

Officials from the **Department of Social Services – Division of Youth Services** stated that Sections 43.530 and 43.546 (**amendment 2**), would have impact for their department and estimated that at least 500 background checks will be required to fill vacancies. The division assumes an average of 25% due to job offers declined, disqualifying findings, and need to conduct multiple checks prior to making an offer.

Based on the provision that fingerprinting would be \$20 per applicant, the division assumed the cost of fingerprint checks for its new hires to be between \$8,330 and \$10,000 during the first three years.

Officials from the **Department of Social Services – Human Resource Center** stated the language appears to make conducting fingerprint background checks an option, rather than mandatory. It also appears that we could require the applicant/employee to pay the cost for the check. For those reasons, a fiscal impact could not be determined at this time.

Officials from the **Department of Social Services – Children’s Division (CD)** stated they now perform name checks for all employees. Should CD opt to require fingerprint checks, the cost would be \$7,340 based on the turnover rate in these positions. However, since the fingerprint check is optional, CD showed the cost as a range from \$0

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** state the proposed legislation would modify the fees and requirements for receipt of a criminal history record information from the Missouri State Highway Patrol. Based on the average number of record checks in the last two years, the increase of \$1 per name check starting in 2010 will increase the yearly income into the Criminal Records Fund by an additional \$691,000 each year until the \$15 maximum is reached in 2015.

Regarding §43.546 RSMo: (**amendment 2**)

The Criminal Records and Identification Division of the Missouri State Highway Patrol estimate that there are approximately 60,000 state employees with an approximate turnover rate of 17%

per year. $60,000 \times 17\% = 10,200$ employees.

ASSUMPTION (continued)

It is estimated that 15% or less, of those 10,200 employees would be in occupations that would require fingerprint checks. $10,200 \times 15\% = 1,530$ employees.

State processing fingerprint fees are \$14 (waived for state employees)
The FBI processing fingerprint fees are \$24, however \$2 is retained in the Criminal Records Fund as administrative fee.

$1,530$ employees \times \$22 = \$33,660 (passed – through to the FBI)
 $1,530$ employees \times \$2 = \$3,060 (retained in the Criminal Records System Fund as administrative fee).

Regarding \$43.530 RSMo

The average number of name checks for the prior two fiscal years is 691,000
The average number of fingerprint checks for the prior two fiscal years is 113,000

FY 08

Fiscal year fees under the old fee schedule would be:

Name $691,000 \times \$5 = \$3,455,000$
Fingerprint $113,000 \times \$14 = \$1,582,000$
Total = \$5,037,000

Fiscal year fees with the proposed increase would be:

Name $691,000 \times \$9 = \$6,219,000$
Fingerprint $113,000 \times \$20 = \$2,260,000$
Total = \$8,479,000
The FY 08 increase would be \$3,442,000 (\$8,479,000 - \$5,037,000)
 $\$3,442,000$ divided by 12 months \times 10 months = \$2,868,333

FY 09

The calculated fiscal year fees with the proposed increase would be:

Name $691,000 \times \$9 = \$6,219,000$
Fingerprint $113,000 \times \$20 = \$2,260,000$
Total = \$8,479,000

The FY 09 increase would be \$3,442,000 (\$8,479,000 - \$5,037,000)

ASSUMPTION (continued)

FY 10

Name 691,000 x \$9.50 = \$6,564,500

Fingerprint 113,000 x \$20 = \$2,260,000

Total = \$8,824,500

The FY 10 increase would be \$3,787,500 (\$8,824,500 - \$5,037,000)

Because the rate will increase from \$9 to \$10 on 1/1/10, the fee for half the fiscal year will be at \$9 and the other half at \$10. MSHP assumes that the checks will be spread evenly throughout the year, so they are using \$9.50 as an average for the year.

Regarding §43.547 RSMo

The Highway Patrol assumes no more than 50 gubernatorial appointees during an election year and less during off years.

State processing fingerprint fees are \$14 (waived at the current time for state employees). FBI processing fingerprint fees are \$24 (pass-through fees to the FBI).

50 appointees x \$24 = \$1,200 (pass-through fees to the FBI, i.e., not retained in the Criminal Records System fund). Because this amount is so small, this section of the proposed legislation is being treated as “no impact.”

Sections 195.503 and 650.120 : Investigations of Internet Sex Crimes:

Officials from the **Department of Public Safety (DPS)** state they awarded 12 grants in FY 2007 with the current appropriation of \$250,000. Assuming this proposal adds another grant program, DPS assumes the need for a 1,000 hour Program Representative and associated expenses to provide oversight necessary for the expanded program. DPS assumes the cost of the part time employee to total roughly \$22,000 per year.

Oversight assumes with the passage of this proposal, the Department of Public Safety will establish another grant program with the focus of investigating Internet sex crimes against

children and would have a similar fiscal impact as the grant program for multijurisdictional internet cyber crime law enforcement task forces.

ASSUMPTION (continued)

Since not more than three percent of the funding may be used by DPS to pay the administrative costs of the grant program, Oversight will assume DPS will be allowed administrative costs of \$7,500 (3% of \$250,000 - which will reduce the grant totals to \$242,500). Like the current funding for grants to multijurisdictional Internet cyber crime law enforcement task forces, Oversight will assume the funding will be made from the General Revenue Fund.

Oversight also assumes changing the statutes to allow these groups to use the grant moneys to purchase equipment (expanded from salaries and training) would not fiscally impact the state.

Officials from the **Missouri Gaming Commission** state that, assuming a \$1 increase in state criminal history checks in each year and an increase in the fingerprint search from \$14 to \$15 would result in additional costs of \$306,720 in FY 2008, \$406,200 in FY 2009 and \$461,670 in FY 2010. (amendment 2)

Oversight assumes the provisions allowing state agencies to require fingerprinting of applicants and criminal history records checks are permissive. Therefore, Oversight has ranged the cost from \$0 to \$36,720 per fiscal year to various state funds.

Oversight assumes the MHP will continue to waive the name background check fees to state agencies.

Repeal of Section 86.365: St. Louis Metropolitan Police Department:

The **Joint Committee on Public Employee Retirement (JCPER)** has reviewed this proposal and has determined an actuarial study is not needed under the provisions of section 105.660, subdivision (5).

Officials of the **St. Louis Police Retirement System** and the **Metropolitan St. Louis Police Department** did not respond. In response to identical legislation that dealt with the repeal of Section 86.365 of last session, fiscal note number 4704, HB 1716 the following fiscal impact

estimates were issued by these entities.

Officials of the **St. Louis Police Retirement System** assumed no fiscal impact.

Officials of the **Metropolitan St. Louis Police Department** assumed no fiscal impact.

ASSUMPTION (continued)

Oversight assumes the provisions of Section 590.040 that relate to reserve officers in St. Louis County would have no fiscal impact.

In response to identical legislation, fiscal note 2563-04, SS for SCS for SB 654, the **Director of Administration of St. Louis County**, stated that this section would have no fiscal impact to the county. The Director stated that St. Louis County does not hire reserved police officers.

This proposal would increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
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GENERAL REVENUE FUND

Costs - Department of Public Safety

Grants to Multijurisdictional enforcement groups	(\$242,500)	(\$242,500)	(\$242,500)
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Costs - Department of Public Safety

Administrative costs allowed of 3% of grant totals (Sec. 195.503 & 650.120)	<u>(\$7,500)</u>	<u>(\$7,500)</u>	<u>(\$7,500)</u>
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**ESTIMATED NET EFFECT TO THE
GENERAL REVENUE FUND**

	<u>(\$250,000)</u>	<u>(\$250,000)</u>	<u>(\$250,000)</u>
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**CRIMINAL RECORDS FUND
(amendment 2)**

Revenues - Missouri Highway Patrol

Fees from record checks (name) from \$5 to \$9 per record	\$2,303,333	\$2,764,000	\$2,764,000
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Revenue - Missouri Highway Patrol

Fees from record checks (fingerprint) from \$14 to \$20 per record	\$565,000	\$678,000	\$678,000
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FISCAL IMPACT - State Government
 (continued)

FY 2008

FY 2009

FY 2010

Revenue - Missouri Highway Patrol

Fees from record checks (name) from \$9 to \$10 on January 1, 2010	<u>\$0</u>	<u>\$0</u>	<u>\$345,500</u>
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**ESTIMATED NET EFFECT TO THE
 CRIMINAL RECORDS FUND**

\$2,868,333

\$3,442,000

\$3,787,500

VARIOUS STATE FUNDS

Costs - Various state agencies

To Criminal Records Fund for fingerprint background checks (43.546)	<u>\$0 to (\$36,720)</u>	<u>\$0 to (\$36,720)</u>	<u>\$0 to (\$36,720)</u>
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**ESTIMATED NET EFFECT TO
 VARIOUS STATE FUNDS**

\$0 to (\$36,720)

\$0 to (\$36,720)

\$0 to (\$36,720)

FISCAL IMPACT - Local Government

FY 2008

FY 2009

FY 2010

LOCAL POLITICAL SUBDIVISIONS

Income - grants for multijurisdictional enforcement groups (Sec. 195.503 & 650.120)

\$242,500

\$242,500

\$242,500

Costs - School Districts

Background/fingerprint requests (amendment 2)	<u>(\$288,305)</u>	<u>(\$348,563)</u>	<u>(\$408,821)</u>
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ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(\$45,805)</u>	<u>(\$106,063)</u>	<u>(\$166,321)</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Senate amendment 2 requires the Highway Patrol, at the direction of the Governor, to conduct name or fingerprint background investigations of gubernatorial appointees. The Governor's directive shall state whether such background investigation shall be a name or fingerprint background investigation. If a fingerprint background investigation is ordered, the appointee must submit a set of fingerprints. These fingerprints and the accompanying fees are forwarded to the Highway Patrol to search the state criminal history repository and the FBI for a national criminal background check.

In addition to the name and fingerprint background investigations, the Highway Patrol may, at the Governor's direction, conduct other investigations to determine if an applicant or appointee has paid his or her required taxes and establish the person's suitability for positions of public trust.

The background investigations may include criminal history record information and other source information obtained by the Highway Patrol.

Currently, an entity making a request, as required by law, for criminal history record information that is not based on a fingerprint search must pay a fee of not more than \$5 per request. Entities making requests not required by law cannot be charged more than \$10. Under this act, an entity cannot be made to pay more than \$9 dollars for such a request regardless of whether required by law. However, after January 1, 2010, the Superintendent of the Highway Patrol may increase the fee by not more than \$1 per year. Under no circumstances shall the fee exceed \$15 dollars per

request.

Currently, an entity making a request for criminal history record information that is based on a fingerprint search must pay a fee of not more than \$14 per request when such request is required by law. When not required by law, the entity may charge not more than \$20 for such request. Under this act, an entity cannot be charged a fee of more than \$20 dollars for criminal history record information based on a fingerprint search, unless the request is required by the concealed carry endorsement statute or foster parent licensing statute, in which case, the fee shall be \$14.

DESCRIPTION (continued)

This act allows any state agency, board, or commission to require an applicant to provide fingerprints in specified occupations or appointments for the purposes of positive identification and receiving criminal history record information when determining the applicant's ability to serve in such an occupation or appointment.

In order to do so, the applicant or employee must submit a set of fingerprints. These fingerprints and the accompanying fees are forwarded to the Highway Patrol to search the state criminal history repository and the FBI for a national criminal background check. All records related to any criminal history information discovered shall be accessible to the state agency making the request.

Sections 195.503, and 650.120 - Currently, multijurisdictional enforcement groups under Chapter 195, RSMo, are allowed to investigate computer, Internet-based, narcotics, and drug violations. This proposal changes the definition of such groups in Section 195.503, RSMo, to reflect this power. Under this act, multijurisdictional enforcement groups are allowed to receive grant money to investigate internet sex crimes against children. The money cannot be used to pay any cost associated with investigating drug violations.

This act allows up to 3% of the money appropriated to the Department of Public Safety for the grant program to be used for administrative costs. This act has an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

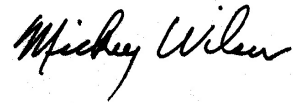
SOURCES OF INFORMATION

Office of the Attorney General
Office of the Secretary of State
Office of the State Treasurer
Office of Administration - Administrative Hearing Commission
Department of Natural Resources
Department of Conservation
Department of Revenue
Department of Corrections

SOURCES OF INFORMATION (continued)

Office of State Courts Administrator
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Public Safety - All Divisions
Department of Social Services
Department of Elementary and Secondary Education
Missouri Gaming Commission
Department of Mental Health
Joint Committee on Public Employee Retirement
St. Louis Police Retirement System
St. Louis Metropolitan Police Department
Director of Administration - St. Louis County

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
May 7, 2007